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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

CALIFORNIA LIFE SCIENCES  
ASSOCIATION, *et al.*,

Plaintiffs,

v.

CENTER FOR MEDICARE AND  
MEDICAID SERVICES, *et al.*,

Defendants.

Civil Action No. 3:20-cv-08603-VC

**JOINT STATUS REPORT**

The parties respectfully submit this Joint Status Report pursuant to the Court's September 1, 2021 Order. *See* ECF No. 60. This action challenges an interim final rule published by the Centers for Medicare & Medicaid Services ("CMS") on November 27, 2020. *See* Most Favored Nation (MFN) Model, 85 Fed. Reg. 76, 180 (Nov. 27, 2020) ("MFN Interim Final Rule"). On December 28, 2020, this Court preliminarily enjoined Defendants from implementing the MFN Interim Final Rule pending completion of notice and comment procedures under the Administrative Procedure Act. *See* Order, ECF No. 50. On January 8, 2021, the Solicitor General determined not to appeal the preliminary injunction issued in this case. The Court has since stayed the case at the parties' request, and directed the filing of periodic Joint Status Reports. Most recently, on September 1, 2021, at the parties' request, the Court extended the stay, with a Joint Status Report due by November 10, 2021.

Consistent with this Court's preliminary injunction, CMS has not implemented the MFN Interim Final Rule, and it is not currently in effect. On August 10, 2021, CMS published a Notice of Proposed Rulemaking ("NPRM") that proposes to rescind the MFN Interim Final Rule. The NPRM had a comment period of 60 days, which ended on October 12, 2021. The agency is currently considering the comments that were submitted regarding the NPRM. The parties respectfully request

that the current stay remain in effect. The parties propose to submit another status report advising the Court of any further developments no later than December 10, 2021.

Dated: November 10, 2021

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**DECLARATION PURSUANT TO LOCAL RULE 5-1(i)(3)**

Pursuant to Local Rule 5-1(i)(3), the undersigned filer declares that concurrence in the filing of this document has been obtained from the other signatories to this document.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 10th day of November, 2021.

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